

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
3:14-CV-00024-GCM**

KWAME A. AGYEI, ETCHIEN KOUAHO,)  
LADJEBE R. LARE and HENRY SUMAH, )  
Individually and on Behalf of All Others )  
Similarly Situated, )  
Plaintiffs, )  
vs. )  
EXPRESS CATERING, INC. and FRANK )  
FUMICH, )  
Defendants.)

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**ORDER  
GRANTING PARTIAL  
STAY OF DISCOVERY**

**THIS MATTER IS BEFORE THE COURT** upon Defendants' Motion to Stay Discovery (Doc. No. 16), Plaintiffs' Response in Opposition (Doc. No. 23), and Defendants' Reply (Doc. No. 36). Having considered the motion, corresponding memoranda and relevant pleadings, and for good cause shown, the Court finds as follows:

Defendants Express Catering, Inc. and Frank Fumich (collectively, "Defendants") have shown that: (a) Defendants' Motion for Summary Judgment (Doc. No. 12) is dispositive and, if granted, would terminate all of Plaintiffs' claims against the Defendants; (b) a stay is necessary to avoid costs, expenses, and inconvenience that would be unnecessary if the Court grants Defendants' Motion for Summary Judgment, and (c) a stay of discovery will not prejudice Plaintiff.

Accordingly, the Court will **GRANT** the motion.

**IT IS, THEREFORE, ORDERED** that all discovery be **STAYED** pending the outcome of Defendants' Motion for Summary Judgment, except on two limited topics issues raised by

Defendants' Motion for Summary Judgment: (a) whether Express Catering's employees are exempt from overtime under 29 U.S.C. § 213(b)(3); and (b) whether Plaintiffs were relieved and performed no duties for break periods equal to or in excess of 30 minutes. The parties are directed to confer and craft a new discovery plan and schedule which addresses these two topics; the parties should submit this plan to the Court within thirty (30) days of the date of this order.

**IT IS FURTHER ORDERED** that Defendants are not required to respond to Plaintiffs' Motion for Collective Action Certification (Doc. No. 42) until further order of the Court. That matter will be held in abeyance until the Court can rule on Defendants' Motion for Summary Judgment.

**SO ORDERED.**

Signed: November 12, 2014



Graham C. Mullen  
United States District Judge

